UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,446	05/10/2005	Michael Anthony Pugel	PU020452	4710

24498 7590 11/09/2009

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

EXAMINER	
LEE, PHILIP C	

ART UNIT	PAPER NUMBER
2448	

MAIL DATE	DELIVERY MODE
11/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/534,446	PUGEL ET AL.	
	Examiner	Art Unit	
	PHILIP C. LEE	2448	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 August 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-14 and 20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-14 and 20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/29/09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment and remarks filed on August 28, 2009.

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/09 has been entered.

3. Claims 1, 4-14 and 20 are presented for examination and claims 2-3 and 15-19 are canceled.

Claim Rejections – 35 USC 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-14 are rejected under 35 U.S.C. 101 because "An alert receiver" comprising a discriminator and a warning device (i.e., software) (see page 4, lines 23-25 of the specification and 32, 30 of fig. 2) does not include any functional structure of a machine. A machine

comprising a discriminator and a warning device (i.e., software) is considered as program per se, which is not one of the categories of statutory subject matter.

Claim Rejections – 35 USC 103

6. Claim 1, 4, 7-9, 12, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin et al, U.S. 7,292,604 (hereinafter Godwin).

7. As per claim 1, Godwin teaches the invention substantially as claimed comprising:

a discriminator which receives encoded signals from a network (col. 12, lines 33-40; fig.1), the encoded signals for reporting an event from an information source coupled to the network (col. 15, lines 41-43), wherein the discriminator compares the encoded signals, which include codes designating geographic locations, to codes associated with specific localities to determine whether to alert a user (col. 15, lines 41-52); wherein

said encoded signals are encoded data stream in the form of a plurality of data packets (col. 13, lines 13-29, 51-53), where auxiliary information containing said codes is distinguished from audio and video information by use of packet identifier (PID) (col. 13, lines 60-63; col. 14, lines 61-66)

said geographical location codes are placed within the user data fields of a header of a data packet from said plurality of data packets (col. 14, lines 62-65; 74, 78, fig. 5); and

said discrimination uses said PID information and said user data fields to determine geographic regions related to said event (col. 13, lines 53-57; col. 14, lines 63-67); and

a warning device responsive to a result of comparing the encoded signals to the codes associated with specific localities, wherein said warning device outputs an alarm in the form of at least one of an audible alarm and a visual alarm (col. 15, lines 48-54).

8. Although Godwin teaches the encoded signals (i.e., EMS stream broadcast with the compressed video and audio) data stream is compressed (col. 13, lines 20-21, 27-28, 40-41; col. 15, lines 45-47), however, Godwin does not specifically teach encoded in an MPEG-2. The background of the invention of Godwin reference teaches encoded signals are encoded in an MPEG-2 (col. 2, lines 5-12).

9. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and the background of the invention because the background of the invention's teaching of encode signal in an MPEG-2 would increase the efficiency of Godwin's system by allow a reduction in the bandwidth required for transmission of the signals.

10. As per claim 4, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin further teach wherein the codes associated with specific localities include codes designating a user's geographic location (col. 15, lines 41-52).

11. As per claim 7, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin further teach comprising a display, which renders textual messages from the encoded signals when a comparison criterion is met (col. 15, lines 8-9, 41-54).

12. As per claim 8, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin further teach wherein the event is associated with the codes designating geographic locations and the codes associated with specific localities designate an aspect of the alert receiver such that when one or more event codes match one or more of the codes associated with specific localities, the warning device responds (col. 15, lines 41-54).

13. As per claim 9, Godwin teaches the invention substantially as claimed in claim 8 above. Godwin further teach wherein the aspect of the alert receiver includes a code designating a location of the alert receiver (col. 15, lines 49-52).

14. As per claim 12, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not specifically teach that the receiver is always on. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to allow the receiver to be always on for being responsive to the encoded signals because by doing so it would be able to receive unexpected warning signal that can occur at any time.

15. As per claim 14, Godwin teaches the invention substantially as claimed in claim 8 above. Godwin further teach wherein the encoded signals are included in a data packet inserted into a

data stream, wherein the data packet is identifiable as an alert message (col. 15, lines 45-47; col. 13, lines 51-63).

16. As per claim 20, Godwin teaches the invention substantially as claimed for receiving an alert message concerning an emergency situation affecting a user location(col. 15, lines 41-52), the user location having a code designation associated therewith comprising the steps of:

receiving the alert message comporting to a data format (col. 13, lines 13-29);

comparing codes that designate geographic locations to the code designation associated with a user location (col. 13, lines 53-57; col. 14, lines 63-67), the codes that designate geographic locations being in user data fields of headers of auxiliary data packets in a data stream in the form with comprise the alert message (col. 13, lines 21-29, 60-63; col. 14, lines 61-66), where said comparison also distinguishes said auxiliary data packets from other data packets by using the packet identifiers (PIDS) associated with said auxiliary data packets (col. 13, lines 60-63; col. 14, lines 61-66); and rendering an alert upon a match of the code designation associated with the user location to the corresponding code designation of the report (col. 15, lines 48-54).

17. Although Godwin teaches the encoded signals (i.e., EMS stream broadcast with the compressed video and audio) data stream is compressed (col. 13, lines 20-21, 27-28, 40-41; col. 15, lines 45-47), however, Godwin does not specifically teach encoded in an MPEG-2. The background of the invention of Godwin reference teaches encoded signals are encoded in an MPEG-2 (col. 2, lines 5-12).

18. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and the background of the invention because the background of the invention's teaching of encode signal in an MPEG-2 would increase the efficiency of Godwin's system by allow a reduction in the bandwidth required for transmission of the signals.

19. Claims 5, 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin in view of Deeds, U.S. Patent 6,710,715 (hereinafter Deeds).

20. As per claim 5, Godwin teaches the invention substantially as claimed in claim 4 above. Godwin does not specifically teach Federal Information Processing System. Deeds teaches wherein the codes designating geographic locations include Federal Information Processing System (FIPS) codes (col. 13, lines 44-45).

21. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and Deeds because Deeds's teaching of FIPS would increase the compatibility of Godwin's system by providing a federal information standard for encoding data.

22. As per claim 6, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not specifically teach Specific Area Message Encoding. Deeds teaches wherein the encoded signals include Specific Area Message Encoding (SAME) (col. 13, lines 35-37).

23. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to Godwin and Deeds because Deeds's teaching of SAME would increase the compatibility of Godwin's system by providing a protocol for encoding emergency alert to be communicated to a public.

24. As per claim 10, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not specifically teach the alert receiver includes codes designating geographic locations. Deeds teaches wherein the aspect of the alert receiver includes the codes designating geographic locations (col. 10, lines 58-61).

25. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to Godwin and Deeds because Deeds's teaching of codes designating geographic locations would increase the alertness of Godwin's system by allowing plurality of geographic locations to be designated.

26. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin in view of Lock et al, U.S. Patent Application Publication 2003/0121036 (hereinafter Lock).

27. As per claim 11, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not teach a head end station through a cable network. Lock teaches a similar alert receiver, wherein the alert receiver is coupled to a head end station through a cable network ([0005]).

28. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teaching of Godwin and Lock because Lock's teaching would allow alert messages to be distributed to users in Godwin's system via CATV distribution cables network.

29. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin in view of Baron et al, U.S. Patent 5,940,776 (hereinafter Baron).

30. As per claim 13, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not teach vertical blanking interval of received television signal. Baron teaches a similar receiver, wherein the encoded signals include characters inserted into a vertical blanking interval (VBI) of a received television signal (col. 2, line 66-col. 3, line 9).

31. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teaching of Godwin and Baron because Baron's teaching would allow alert messages such as National Weather Service (NWS) messages to be inserted in a television signal for transmission to a remote user in Godwin's system.

32. Applicant's arguments with respect to claims 1, 4-14 and 20 have been considered but they are moot in view of new grounds of rejections.

33. In the remarks, applicant argued that:

(1) Claims 1-14 are directed to statutory subject matter.

34. In response to point (1), "An alert receiver" as claimed in claim 1 does not inherently means that the claim is directed to a machine (i.e., apparatus). Only if at least one of the claimed elements of the receiver is a physical part of a device can the receiver as claimed to be a machine within the meaning of 101. On page 2, paragraph 2 of the remarks filed on 8/28/09, applicant states "Alternatively, if one were to except the Examiner's view (which the Applicants do not) that the Claim 1 is effectively software, the claim would still be patentable because one would have to consider such claim elements as function descriptive material. The only open question, then for patentability, is whether such function descriptive material is embodied in a physical form." If "An alert receiver" is directed to software program itself, then "An alert receiver" must be stored on an appropriate manufacture within the meaning of 101 which are structurally and functionally interconnected with the software program in a manner which enables the software program to act as a computer component and realize its functionality.

CONCLUSION

35. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Philip C Lee/

Primary Examiner, Art Unit 2448